

**BILL #** HB 2214

**TITLE:** veterans' services department, fiduciary duties

**SPONSOR:** Hanson

**STATUS:** House Engrossed

**REQUESTED BY:** Senate

**PREPARED BY:** John Malloy

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**FISCAL YEAR**

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**2003**

**2004**

**2005**

**EXPENDITURES**

General Fund	\$0	
Veterans' Conservatorship Fund	\$0	Potential impact

**FISCAL ANALYSIS**

**Description**

The bill expands the Arizona Department of Veterans' Services' (ADVS) fiduciary authority and re-positions the department's standing on the priority list of those who may be appointed as guardian or conservator of an incapacitated veteran or a veteran's spouse or minor child.

**Estimated Impact**

HB 2214 has a potential impact as it could expand the number of veterans receiving fiduciary services from ADVS. The Arizona Department of Veterans' Services will not be required to take on additional new clients as a result of HB 2214. HB 2214 would, however, significantly increase the number of individuals the department would have priority over in fiduciary matters involving an incapacitated veteran or a veteran's spouse or minor child.

Currently, ADVS is given equal priority with other public and private fiduciaries to serve as a guardian or conservator in financial matters involving an incapacitated veteran. While ADVS would not be required to take on any additional clients, HB 2214 would force the agency to reject a significant number of individuals that the agency would now have the priority to serve in order to maintain its current client projections.

The Department of Veterans' Services does not intend to take on any additional clients as a result of this legislation and therefore anticipates no fiscal impact resulting from HB 2214. However, this legislation would enable the department to significantly expand the scope of the agency's Fiduciary Division in the future. A significant expansion of the division could result in associated costs to both the General Fund and the Veterans' Conservatorship Fund.

**Analysis**

Clients are referred to the division from, among others, the U.S. Department of Veterans' Affairs, Adult Protective Services and the Arizona State Hospital. Upon receiving a referral, the division determines whether the agency is able to provide the services necessary for the individual client. If it is determined that ADVS is able to assist the client, the division petitions the Superior Court seeking appointment. If the Court agrees, ADVS is appointed conservator, guardian or representative payee.

Currently, the Arizona Department of Veterans' Services has priority over other public and private fiduciaries in acting as a personal representative of a veteran. HB 2214 would reposition the department above other public and private entities to act as both a conservator and guardian of a veteran. Personal representatives administer the estates of deceased veterans and distribute their assets to any heirs. Guardians assume the responsibility for an incapacitated veteran and their family's

physical and medical needs. Conservators manage the property and financial affairs of veterans or their dependents placed under the department's care.

HB 2214 would also codify in statute ADVS' priority to serve in fiduciary matters relating to a veteran's spouse or minor child. While the department does represent family members of veterans in fiduciary matters, such authority is not explicitly stated in statute. ADVS, under HB 2214, would have to recuse themselves from serving as a guardian or conservator to an incapacitated veteran or a veteran's spouse or minor child, before another public or private fiduciary could represent that client.

ADVS charges a fee for fiduciary services provided to clients served by its Fiduciary Division, which are deposited into the Veterans' Conservatorship Fund. The department receives on average \$1,300 in annual revenues for acting as a conservator and \$500 as a guardian. Prior to FY 2000, the Fiduciary Division operated solely on revenues from its Conservatorship Fund. In March 1998, the Superior Court of Maricopa and Pima County ceased appointing ADVS as a conservator due in part to an Auditor General procedural review which detailed extensive oversight problems in the Fiduciary Division. As a result, the number of clients and revenues to the Conservatorship Fund declined to the level where a General Fund appropriation was necessary to continue to operate the division. The moratorium was lifted in June of 2000. For FY 2003, \$430,000 of the Fiduciary Division's budget of \$970,000 is funded via the General Fund.

It is not clear what the impact of HB 2214 would have on the General Fund, as it is not known if, and to what extent, the Fiduciary Division would expand as a result of this legislation.

#### **Local Government Impact**

There is no anticipated cost to local governments.

3/20/03